

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-01187-RDM**

AMERICAN OVERSIGHT v. U.S. DEPARTMENT OF
HOMELAND SECURITY et al
Assigned to: Judge Randolph D. Moss
Cause: 05:552 Freedom of Information Act

Date Filed: 06/16/2017
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

AMERICAN OVERSIGHT

represented by **Daniel Alexander McGrath**
AMERICAN OVERSIGHT
1030 15th Street, NW
Suite B255
Washington, DC 20005
(202) 897-4213
Email: daniel.mcgrath@americanoversight.org
ATTORNEY TO BE NOTICED

Cerissa Cafasso
AMERICAN OVERSIGHT
1030 15th Street, NW
Suite B255
Washington, DC 20005
(202) 869-5244
Fax: (202) 871-6523
Email: cerissa.cafasso@americanoversight.org
ATTORNEY TO BE NOTICED

V.

Defendant

**U.S. DEPARTMENT OF
HOMELAND SECURITY**

represented by **William Mark Nebeker**
U.S. ATTORNEY'S OFFICE
Civil Division
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2536
Fax: (202) 252-2599
Email: mark.nebeker@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**U.S. CUSTOMS AND BORDER
PROTECTION**

represented by **William Mark Nebeker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**U.S. DEPARTMENT OF THE
INTERIOR**
TERMINATED: 05/03/2018

represented by **William Mark Nebeker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**OFFICE OF MANAGEMENT AND
BUDGET**

represented by **William Mark Nebeker**
(See above for address)

TERMINATED: 07/24/2018

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/16/2017	<u>1</u>	COMPLAINT against ALL DEFENDANTS (Filing fee \$ 400 receipt number 0090-4993994) filed by AMERICAN OVERSIGHT. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons U.S. Attorney, # <u>3</u> Summons Attorney General, # <u>4</u> Summons U.S. Department of Homeland Security, # <u>5</u> Summons U.S. Customs and Border Protection, # <u>6</u> Summons U.S. Department of the Interior, # <u>7</u> Summons Office of Management and Budget)(Cafasso, Cerissa) (Entered: 06/16/2017)
06/16/2017	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by AMERICAN OVERSIGHT (Cafasso, Cerissa) (Entered: 06/16/2017)
06/16/2017		Case Assigned to Judge Randolph D. Moss. (md) (Entered: 06/16/2017)
06/16/2017	<u>3</u>	STANDING ORDER: The parties are hereby ORDERED to comply with the directives in the attached Standing Order. See document for details. Signed by Judge Randolph D. Moss on 6/16/2017. (lcrdm3,) (Entered: 06/16/2017)
06/16/2017	<u>4</u>	SUMMONS (6) Issued Electronically as to OFFICE OF MANAGEMENT AND BUDGET, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. DEPARTMENT OF THE INTERIOR, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice of Consent) (md) (Entered: 06/16/2017)
06/23/2017	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/21/2017. (Answer due for ALL FEDERAL DEFENDANTS by 7/21/2017.), RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. OFFICE OF MANAGEMENT AND BUDGET served on 6/21/2017; U.S. CUSTOMS AND BORDER PROTECTION served on 6/20/2017; U.S. DEPARTMENT OF HOMELAND SECURITY served on 6/20/2017; U.S. DEPARTMENT OF THE INTERIOR served on 6/20/2017, RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 6/21/2017. (Attachments: # <u>1</u> Exhibit A)(Cafasso, Cerissa) (Entered: 06/23/2017)
07/19/2017	<u>6</u>	NOTICE of Appearance by William Mark Nebeker on behalf of OFFICE OF MANAGEMENT AND BUDGET, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. DEPARTMENT OF THE INTERIOR (Nebeker, William) (Entered: 07/19/2017)
07/19/2017	<u>7</u>	Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by OFFICE OF MANAGEMENT AND BUDGET, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. DEPARTMENT OF THE INTERIOR (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 07/19/2017)
07/19/2017		MINUTE ORDER: Upon consideration of Defendants' Unopposed Motion for Extension of Time to File Answer <u>7</u> , the motion is hereby GRANTED. It is ORDERED that Defendants shall answer or otherwise respond to Plaintiff's complaint on or before August 21, 2017. Signed by Judge Randolph D. Moss on 7/19/2017. (lcrdm3,) (Entered: 07/19/2017)
07/19/2017		Set/Reset Deadlines: Answer due by 8/21/2017. (kt) (Entered: 07/19/2017)
08/21/2017	<u>8</u>	ANSWER to Complaint by OFFICE OF MANAGEMENT AND BUDGET, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. DEPARTMENT OF THE INTERIOR.(Nebeker, William) (Entered: 08/21/2017)
08/21/2017		MINUTE ORDER: It is hereby ORDERED that the parties shall appear for a status conference on August 29, 2017, at 10:30 a.m. in Courtroom 21. It is further ORDERED that the parties shall meet and confer prior to the status conference to discuss scheduling for further proceedings. Signed by Judge Randolph D. Moss on

		8/21/2017. (lcrdm3,) (Entered: 08/21/2017)
08/21/2017		Set/Reset Hearings: Status Conference set for 8/29/2017, at 10:30 AM, in Courtroom 21, before Judge Randolph D. Moss. (kt) (Entered: 08/21/2017)
08/29/2017		Minute Entry for proceedings held before Judge Randolph D. Moss: Status Conference held on 8/29/2017. Joint Status Report due no later than 9/18/2017. (Court Reporter: Jeff Hook.) (kt) (Entered: 08/29/2017)
09/18/2017	<u>9</u>	Joint STATUS REPORT by U.S. Department of Homeland Security et al and by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 09/18/2017)
09/19/2017		MINUTE ORDER: As the parties request in their Joint Status Report <u>9</u> , it is hereby ORDERED that the parties shall file a further joint status report on or before October 19, 2017. Signed by Judge Randolph D. Moss on 9/19/2017. (lcrdm3,) (Entered: 09/19/2017)
09/19/2017		Set/Reset Deadlines: Joint Status Report due by 10/19/2017. (kt) (Entered: 09/19/2017)
09/25/2017	<u>10</u>	STATUS REPORT by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 09/25/2017)
09/27/2017	<u>11</u>	STATUS REPORT by OFFICE OF MANAGEMENT AND BUDGET, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. DEPARTMENT OF THE INTERIOR. (Nebeker, William) (Entered: 09/27/2017)
09/27/2017		MINUTE ORDER: The parties are hereby ORDERED to appear for a status conference on October 6, 2017, at 2:15 p.m. in Courtroom 21. Signed by Judge Randolph D. Moss on 9/27/17. (lcrdm3,) (Entered: 09/27/2017)
09/28/2017		Set/Reset Hearings: Status Conference set for 10/6/2017, at 2:15 PM, in Courtroom 21, before Judge Randolph D. Moss. (kt) (Entered: 09/28/2017)
10/06/2017		Minute Entry for proceedings held before Judge Randolph D. Moss: Status Conference held on 10/6/2017. Issues addressed. The parties shall confer as to outstanding issues, and if needed, jointly contact chambers if it is necessary for the Court to remedy those issues. (Court Reporter: Jeff Hook.) (kt) (Entered: 10/06/2017)
10/19/2017	<u>12</u>	Joint STATUS REPORT by U.S. Department of Homeland Security et al and by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 10/19/2017)
10/20/2017		MINUTE ORDER: As the parties request in their Joint Status Report <u>12</u> , it is hereby ORDERED that the parties shall file a further joint status report on or before December 8, 2017. Signed by Judge Randolph D. Moss on 10/20/17. (lcrdm3,) (Entered: 10/20/2017)
10/23/2017		Set/Reset Deadlines: Joint Status Report due by 12/8/2017. (kt) (Entered: 10/23/2017)
12/08/2017	<u>13</u>	Joint STATUS REPORT by U.S. Department of Homeland Security et al and by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 12/08/2017)
12/11/2017		MINUTE ORDER: In light of the parties' Joint Status Report <u>13</u> , it is hereby ORDERED that counsel for the parties will confer regarding the status of all of the searches on or before January 16, 2018. It is further ORDERED that on or before January 22, 2018, the parties will file a joint status report with the Court to provide the Court with an update on the status of the searches. Signed by Judge Randolph D. Moss on 12/11/17. (lcrdm3,) (Entered: 12/11/2017)
12/11/2017		Set/Reset Deadlines: Counsel for the parties to confer regarding the status of all of the searches on or before 1/16/2018; Joint Status Report due by 1/22/2018. (kt) (Entered: 12/11/2017)
01/22/2018	<u>14</u>	Unopposed MOTION to Stay <i>In Light Of Lapse Of Appropriations</i> by OFFICE OF MANAGEMENT AND BUDGET, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. DEPARTMENT OF THE INTERIOR (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) Modified on 1/23/2018 (znmw). (Entered: 01/22/2018)

01/23/2018		MINUTE ORDER: Upon consideration of Defendants' Unopposed Motion for a Stay in Light of Lapse of Appropriations <u>14</u> , it is hereby ORDERED that the motion is DENIED as moot. It is further ORDERED that the January 22, 2018 deadline for the filing of a joint status report set in the Court's Minute Order (Dec. 11, 2017) is VACATED and RESCHEDULED for January 25, 2018. Signed by Judge Randolph D. Moss on 1/23/18. (lcrdm3,) (Entered: 01/23/2018)
01/23/2018		Set/Reset Deadlines: Joint Status Report due by 1/25/2018. (kt) (Entered: 01/23/2018)
01/25/2018	<u>15</u>	Joint STATUS REPORT by OFFICE OF MANAGEMENT AND BUDGET, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. DEPARTMENT OF THE INTERIOR. (Nebeker, William) (Entered: 01/25/2018)
01/26/2018		MINUTE ORDER: In light of the parties' Joint Status Report <u>15</u> , it is hereby ORDERED that the parties shall meet and confer regarding the status of all of the searches and production schedules on or before February 20, 2018. It is further ORDERED that the parties shall file a further joint status report on or before February 23, 2018. Signed by Judge Randolph D. Moss on 1/26/18. (lcrdm3,) (Entered: 01/26/2018)
01/26/2018		Set/Reset Deadlines: Attorney Meet and Confer deadline due by 2/20/2018; Joint Status Report due by 2/23/2018. (kt) (Entered: 01/26/2018)
01/26/2018		Set/Reset Deadlines: Parties shall Meet and Confer regarding the status of all of the searches and production schedules by 2/20/2018. Joint Status Report due by 2/23/2018. (dot) (Entered: 01/29/2018)
02/23/2018	<u>16</u>	Joint STATUS REPORT by U.S. Department of Homeland Security et al and by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 02/23/2018)
02/26/2018		MINUTE ORDER: In light of the parties' Joint Status Report <u>16</u> , it is hereby ORDERED that the parties shall meet and confer regarding the status of all of the searches and production schedules on or before March 29, 2018. It is further ORDERED that the parties shall file a further joint status report on or before April 6, 2018. Signed by Judge Randolph D. Moss on 2/26/18. (lcrdm3,) (Entered: 02/26/2018)
02/26/2018		Set/Reset Deadlines: Attorney Meet and Confer Conference due by 3/29/2018; Joint Status Report due by 4/6/2018. (kt) (Entered: 02/26/2018)
04/06/2018	<u>17</u>	Joint STATUS REPORT by U.S. Department of Homeland Security et al and by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 04/06/2018)
04/09/2018		MINUTE ORDER: In light of the parties' Joint Status Report <u>17</u> , it is hereby ORDERED that the parties shall file a further joint status report on or before May 2, 2018. Signed by Judge Randolph D. Moss on 4/9/18. (lcrdm3,) (Entered: 04/09/2018)
04/09/2018		Set/Reset Deadlines: Joint Status Report due by 5/2/2018. (kt) (Entered: 04/09/2018)
05/02/2018	<u>18</u>	STIPULATION of Dismissal by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 05/02/2018)
05/02/2018	<u>19</u>	Joint STATUS REPORT by U.S. Department of Homeland Security et al and by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 05/02/2018)
05/03/2018		MINUTE ORDER: In light of the Plaintiff's Stipulation of Dismissal <u>18</u> , it is hereby ORDERED that the Department of the Interior is DISMISSED as a defendant in this case. It is further ORDERED that the parties shall file a joint status report on or before June 1, 2018. Signed by Judge Randolph D. Moss on 5/3/18. (lcrdm3,) (Entered: 05/03/2018)
05/03/2018		Set/Reset Deadlines: Joint Status Report due by 6/1/2018. (kt) (Entered: 05/03/2018)
06/01/2018	<u>20</u>	Joint STATUS REPORT by AMERICAN OVERSIGHT. (Attachments: # <u>1</u> Text of Proposed Order Submitted by American Oversight, # <u>2</u> Text of Proposed Order Submitted by Defendant)(Cafasso, Cerissa) (Entered: 06/01/2018)

06/14/2018		MINUTE ORDER: In light of the parties' Joint Status Report <u>20</u> , it is hereby ORDERED that the following schedule shall govern further proceedings in this case: (1) Defendant Department of Homeland Security ("DHS") shall complete production no later than July 16, 2018, of all non-exempt records responsive to Freedom of Information Requests with the agency tracking numbers 2017-HQFO-00569, 2017-HQFO-00570, 2017-HQFO-00590, 2017-HQFO-00728, and 2017-HQFO-00618; (2) the parties shall file a further joint status report with the Court on or before July 23, 2018, addressing recommendations for the Court for further proceedings as to the requests with Defendants U.S. Customs and Border Protection and the Office of Management and Budget; (3) Defendant DHS shall produce to Plaintiff a Vaughn declaration and Vaughn index addressing information withheld pursuant to one or more FOIA exemptions on or before August 24, 2018; (4) Plaintiff and Defendant DHS shall meet and confer regarding any remaining issues to be litigated on or before August 31, 2018; and (5) the parties are directed to appear for a status conference on September 5, 2018, at 10:00 a.m. in Courtroom 21. Signed by Judge Randolph D. Moss on 6/14/18. (lcrdm3,) (Entered: 06/14/2018)
06/14/2018		Set/Reset Deadlines/Hearings: Defendant Department of Homeland Security ("DHS") shall complete production no later than 7/16/2018; Joint Status Report due by 7/23/2018; Vaughn Index due by 8/24/2018; Meet and Confer Deadline due by 8/31/2018. Status Conference set for 9/5/2018, at 10:00 AM, in Courtroom 21, before Judge Randolph D. Moss. (kt) (Entered: 06/14/2018)
07/23/2018	<u>21</u>	STIPULATION of Dismissal of <i>Office of Management & Budget</i> by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 07/23/2018)
07/23/2018	<u>22</u>	Joint STATUS REPORT by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 07/23/2018)
07/24/2018		MINUTE ORDER: In light of Plaintiff's Stipulation of Dismissal of Office of Management & Budget <u>21</u> , it is hereby ORDERED that the Office of Management and Budget is DISMISSED as a defendant in this action. Signed by Judge Randolph D. Moss on 7/24/18. (lcrdm3,) (Entered: 07/24/2018)
09/05/2018	<u>23</u>	NOTICE of Appearance by Daniel Alexander McGrath on behalf of AMERICAN OVERSIGHT (McGrath, Daniel) (Main Document 23 replaced on 9/6/2018) (ztd). (Entered: 09/05/2018)
09/05/2018		Minute Entry for proceedings held before Judge Randolph D. Moss: Status Conference held on 9/5/2018. Plaintiff's Cross Motion due by 1/11/2019. Response to Cross Motion due by 2/1/2019. Reply to Cross Motion due by 2/15/2019. Government's Summary Judgment Motion due by 12/7/2018. Response to Motion for Summary Judgment due by 1/11/2019. Reply to Motion for Summary Judgment due by 2/1/2019. Status Report due by 11/8/2018. (Court Reporter Jeff Hook.) (dot) (Entered: 09/05/2018)
11/08/2018	<u>24</u>	Joint STATUS REPORT by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 11/08/2018)
11/09/2018		MINUTE ORDER: Upon consideration of the parties' joint status report <u>24</u> , it is hereby ORDERED that the briefing schedule set forth in the Court's September 5, 2018 minute entry is VACATED. It is further ORDERED that the parties shall submit a further joint status report on or before December 7, 2018. Signed by Judge Randolph D. Moss on 11/9/2018. (lcrdm3,) (Entered: 11/09/2018)
12/07/2018	<u>25</u>	Joint STATUS REPORT by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 12/07/2018)
12/10/2018		MINUTE ORDER: Upon consideration of the parties' joint status report <u>25</u> , it is hereby ORDERED that the parties shall file a further joint status report on or before January 11, 2019. Signed by Judge Randolph D. Moss on 12/10/2018. (lcrdm3,) Modified on 12/10/2018 to correct date (year) (kt). (Entered: 12/10/2018)
12/10/2018		Set/Reset Deadlines: Joint Status Report due by 1/11/2019. (kt) (Entered: 12/10/2018)
12/10/2018		Set/Reset Deadlines: Joint Status Report due by 1/11/2019.9 (kt) (Entered: 12/10/2018)

01/09/2019	<u>26</u>	MOTION to Stay (<i>Defendants' Motion to Stay Proceedings in Light of Lapse in Appropriations</i>) by U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 01/09/2019)
01/10/2019		MINUTE ORDER: Upon consideration of the government's motion to stay <u>26</u> , it is hereby ORDERED that the motion is GRANTED in part and DENIED in part. The parties shall file their joint status report on or before February 1, 2019. It is further ORDERED that the government shall be permitted to renew its motion for a stay or for other relief if the lapse in appropriations extends beyond January 25, 2019. Signed by Judge Randolph D. Moss on 1/10/2019. (lcrdm3,) Modified on 1/10/2019 to remove typo (extra word "status") (kt). (Entered: 01/10/2019)
01/10/2019		Set/Reset Deadlines: The parties shall file their joint status report on or before 2/1/2019. (kt) (Entered: 01/10/2019)
02/01/2019	<u>27</u>	Joint STATUS REPORT by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 02/01/2019)
02/04/2019		MINUTE ORDER: Upon consideration of the parties' joint status report <u>27</u> , it is hereby ORDERED that the parties shall file a further joint status report on or before March 1, 2019. Signed by Judge Randolph D. Moss on 2/4/2019. (lcrdm3,) (Entered: 02/04/2019)
02/04/2019		Set/Reset Deadlines: Joint Status Report due by 3/1/2019. (kt) (Entered: 02/04/2019)
03/01/2019	<u>28</u>	Joint STATUS REPORT by AMERICAN OVERSIGHT. (Cafasso, Cerissa) (Entered: 03/01/2019)